

# Atlantic Richfield Company

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## **Via Email**

Greg Lovato  
Deputy Administrator  
Nevada Division of Environmental Protection  
901 S. Stewart Street, Suite 4001  
Carson City, Nevada 89701  
[glovato@ndep.nv.gov](mailto:glovato@ndep.nv.gov)

**RE:** Yerington Mine Site, NPL Listing and Alternative Funding for OU-8 Remedy

Dear Greg:

I am responding to your request for Atlantic Richfield's (ARC) position on NPL listing and whether it will continue to participate in on-going discussions around alternative pathways that would preclude listing. ARC's position on these issues was laid out in my June 30, 2015 letter and still remains the same. AR agrees it is in the involved parties' mutual interests to identify a more efficient and timely remedial solution for the Site. ARC does not oppose NPL listing at this point, given that it would provide a substantial source of funding for the OU-8 orphan share. However, ARC will continue the dialog around alternate NPL pathways and alternate funding mechanisms, as long as doing so does not foreclose or unreasonably delay a decision on NPL listing.

Some of the key points from the June 30<sup>th</sup> letter are highlighted below and remain some of the key issues that an alternative path must grapple with

1. Before ARC would commit substantial funding towards an OU-8 solution, there would need to be some commitment by the agencies and other parties to contribute funding to the OU-1 remedy in an amount commensurate with the groundwater impacts attributable to OU-8.
2. Mine development offers a possible, cost-effective alternative path to CERCLA for the long-term management and stewardship of the Site. However, there is currently no mine plan in place for this site and the timeframe for development of such a plan is unclear.
3. Atlantic Richfield needs to better understand whether or not active extraction and treatment of off-site groundwater will be required before it can formulate a definitive position on OU-8.
4. Atlantic Richfield cannot agree to participate in the OU-8 remedy by itself. Work or funding assurances must also come from other interested parties. Atlantic Richfield is currently maintaining the OU-8 FMS at a substantial cost. These obligations would have to be terminated or re-assigned within a reasonable amount of time as a condition of Atlantic Richfield's participation in an OU-8 remedy.

5. At a minimum, we would need to receive standard covenants not to sue from Nevada and the United States relating to OU-8, including releases of hazardous substances to groundwater from OU-8.
6. How much Atlantic Richfield would be willing to contribute towards OU-8 depends in large part on what it will be required to do and how much it will be required to spend elsewhere at the Site. The more reasonable the remedial action for OU-1, for example, the more we may be willing to participate at OU-8. But regardless of those other considerations, it is highly unlikely that Atlantic Richfield would ever willingly commit to a majority stake in a \$30 million OU-8 remedy.

ARC supports the proposal in the January 26, 2016 to seek 2 – 3 months of additional time to see if a viable alternative path can be negotiated amongst the interested parties and is happy to participate in on-going discussions around this issue. However, we also believe that these discussions should be time limited and if no viable alternative is identified, then listing should move forward. We look forward to hearing other parties' perspective on these issues.

Sincerely yours,

*Brian S. Johnson*  
Liability Business Manager

cc: Patricia Gallery, Atlantic Richfield  
Jack Oman, Atlantic Richfield  
Ron Halsey, Atlantic Richfield  
James Lucari, BP  
Adam Cohen, Davis Graham & Stubbs  
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